

REMARKS

The Applicant appreciates the Examiner's attention to this Application, and reconsideration is respectfully requested. Claims 1-25 and 38-42 are now pending in the application.

I. Renumbering of Claims

The Examiner has renumbered the originally misnumbered claims 12 (second occurrence) to 36 as Claims 13-37, and the Applicant has reflected the renumbering in the claims presented in this Response. The Applicant appreciates the Examiner's correction of this matter.

II. Affirmation of Provisional Election

The Applicant affirms the provisional election made without traverse on 6/30/05 to prosecute the invention of group I, Claims 1-25. Claims 26-37 were withdrawn from further consideration by the Examiner under 37 CFR 1.142(b) as being drawn to a non-elected invention. Applicant cancels Claims 26-37 without prejudice to the filing of a divisional or continuation application directed to the subject matter thereof.

III. Rejection of Claims 3, 9, 15, and 21 under 35 USC §112

Claims 3, 9, 15, and 21 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the Application.

In response, Claims 3 and 15 have been amended to delete the phrase "and the like", and Claims 9 and 15 have been amended to delete the phrase "such as" and substitute the language "selected from the group consisting of". These amendments are not being made to make the claims patentable over any prior art, rather these amendments are intended to merely provide technical clarity to the claims.

Although not in response to any rejection, Applicant has also amended Claim 9 to correct a typographical error in the spelling of polyaspartic acid.

IV. Rejection of Claims 1-9 and 12 under 35 USC §102(b)

Claims 1-9 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,273,580 to Totten et al. ("Totten").

Amended, independent Claim 1 has been amended to clarify that "said

environmentally benign sequestering agent is derived from naturally occurring amino acids linked together in polymeric form.” Support for this amendment is found at Paragraph 21 of the Application. No new matter has been added.

Totten discloses 2-acrylamido, 2-methylpropane sulfonic acid as a retarder used in cement compositions to provide rapid development of cement compressive strength after placement. (Totten, Column 6, lines 21-28.) However, Totten does not teach or suggest that 2-acrylamido, 2-methylpropane sulfonic acid is environmentally benign, a sequestering agent, or that it is derived from naturally occurring amino acids linked together in polymeric form. The 2-acrylamido, 2-methylpropane sulfonic acid disclosed in Totten is not derived from naturally occurring amino acids. Therefore, Totten does not teach or suggest the invention defined by Claims 1-9 and 12.

In addition, the rejection of the subject matter of originally presented dependent Claim 9 is traversed. The subject matter of the originally presented Claim 9 is independently patentable and represented as new independent Claim 38. This subject matter is directed to certain specified polymeric materials of the 22 amino acids containing metal complexing groups selected from the group of carboxylic acids, phosphonic acids, sulfonic acids and boronic acids. The 2-acrylamido, 2-methylpropane sulfonic acid disclosed in Totten is not derived from a naturally occurring amino acid. Reconsideration and allowance of new Claim 38 is respectfully requested.

V. Rejection of Claims 1-9, 12-21, 24 and 25 under 35 U.S.C. 102(e)

Claims 1-9, 12-21, 24 and 25 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,024,170 to McCabe et al. (“McCabe”) and U.S. Patent No. 6,488,091 to Weaver et al. (“Weaver”). Claims 1-9, 12-21, 24, and 25 were also rejected under 35 USC 102(e) as being anticipated by Dobson, Jr. et al.

Independent Claim 1 and Claim 13 have been amended to clarify that “said environmentally benign sequestering agent is derived from naturally occurring amino acids linked together in polymeric form.” Support for this amendment is found at Paragraph 21 of the Application. No new matter has been added.

McCabe discloses dispersing agents, preferably alkyl aromatic sulfonic acid according to certain formulas, and preferably alkyl aromatic sulfonic acids such as earth metal salts of dodecylbenzene sulfonic acid. (McCabe, Column 4, lines 18-44). However, McCabe does not teach or suggest that alkyl aromatic sulfonic acids such as earth metal salts of dodecylbenzene sulfonic acid are environmentally benign, useful as a sequestering agent,

or that they are derived from naturally occurring amino acids linked together in polymeric form. Therefore, McCabe does not teach or suggest the inventions defined by Claims 1-9, 12-21, 24, and 25.

Weaver discloses, "a surfactant for preventing the formation of emulsions between the treating fluid which is formed with the concentrate and subterranean formation fluids. Examples of such surfactants include, but are not limited to, alkyl sulfonates, alkyl aryl sulfonates including alkyl benzyl sulfonates such as salts of dodecylbenzene sulfonic acid, alkyl trimethylammonium chloride, branched alkyl ethoxylated alcohols, phenol-formaldehyde nonionic resin blends, cocobetaines, dioctyl sodium sulfosuccinate, imidazolines, alpha olefin sulfonates" (Weaver, Column 6, lines 51-63.) Weaver also discloses hydroxyethyl cellulose grafted with vinyl phosphonic acid. (Weaver, Column 5, lines 36-37.) However, Weaver does not teach or suggest that above described surfactants are environmentally benign, useful as a sequestering agent, or that they are derived from naturally occurring amino acids linked together in polymeric form. The surfactants disclosed in Weaver are not derived from naturally occurring amino acids linked together in polymeric form. Therefore, Weaver does not teach or suggest the inventions defined by Claims 1-9, 12-21, 24, and 25.

Dobson Jr. discloses the use of deflocculants effective in saline fluids, and cites various examples. (Dobson, Paragraph 0027.) However, Dobson Jr. does not teach or suggest that the described deflocculants are environmentally benign, useful as a sequestering agent, or that they are derived from naturally occurring amino acids linked together in polymeric form. The deflocculants disclosed in Dobson Jr. are not derived from naturally occurring amino acids linked together in polymeric form. Therefore, Dobson Jr. does not teach or suggest the inventions defined by Claims 1-9, 12-21, 24, and 25.

In addition, the rejection of the subject matter of originally presented dependent Claims 9 and 21 is traversed, and the subject matter of the originally presented Claim 9 is presented as new independent Claim 38. This subject matter of Claim 38 is directed to certain specified polymeric materials of the 22 amino acids containing metal complexing groups selected from the group of carboxylic acids, phosphonic acids, sulfonic acids and boronic acids. The materials as disclosed in any of McCabe, Weaver, and Dobson Jr. as discussed above are not derived from a naturally occurring amino acid. Reconsideration and allowance of new Claim 38 is respectfully requested.

VI. Response to Provisional Rejection for Obviousness-type Double Patenting

Claims 1-3, 5-9, and 12 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 7-12 of copending Application No. 10/664,206. Although the conflicting claims are not identical, the Office Action stated that they are not patentably distinct from each other.

In response, the Applicant is filing a terminal disclaimer under 37 C.F.R. 1.321(c).

VII. Allowable Subject Matter

The Office Action stated that Claims 10, 11, 22, 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including form including all of the limitations of the base claim and any intervening claims.

In response, Claims 10, 11, 22, 23 have been rewritten in independent form as independent, new Claims 39-42. No new matter has been added. Therefore, independent, new Claims 39-42 are believed to now be in condition for allowance.

VIII. Conclusion

For these reasons, it is believed that Claims 1-25 and 38-42 as currently presented are patentable and in condition for allowance.

The Commissioner of Patents is hereby authorized to charge any fees or overpayments to Deposit Account No. 08-300.

Dated: October 13, 2005

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October 13, 2005

Date of Deposit

Sammy Knight
Name of Applicant, Assignee or Registered Representative

Sammy Knight
Signature

October 13, 2005

Date of Signature

Respectfully submitted,



Robert A. Kent
Registration No. 28,626
Halliburton Energy Services, Inc
P.O. Drawer 1431
Duncan, OK 73536-0440
Telephone: 580-251-3125
Attorneys for Applicant